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NEW DELHI, SATURDAY, JULY 21, 1990/ASADHA 30, 1912

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह जलग संकलन की रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (iii) PART II—Section 3—Sub-section (iii)

(संघ राज्य क्षेत्र प्रशासनों को छोड़कर) केन्द्रीय अधिकारियों द्वारा जारी किए गए आदेश और अधिसूचनाएं
Orders and Notifications issued by Central Authorities (other than Administrations of Union Territories)

भारत निर्वाचन आयोग

ELECTION COMMISSION OF INDIA

नई दिल्ली, 26 जून, 1990

New Delhi, the 26th June, 1990

आ. अ. 34:—लोक प्रसिद्धि अधिनियम, 1950 (1950 का 43) की धारा 13A की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत निर्वाचन आयोग, मणिपुर सरकार के परामर्श के श्री बी. एस. लाम्बा, आई. ए. एस. के स्थान पर श्री जर्नाल सिंह, आई. ए. एस. आयुक्त (विजली/योजना) को उनके कार्यभार सम्भालने की तारीख से अगले आदेशों तक मणिपुर राज्य के मुख्य निर्वाचन अधिकारियों की रूप में पदव्यवस्था नामनिर्दिष्ट करता है।

O.N. 34.—In exercise of the powers conferred by sub-section (1) of section 13A of the Representation of the People Act, 1950 (43 of 1950), the Election Commission of India, in consultation with the Government of Manipur hereby nominates Shri Jarnail Singh, IAS, Commissioner (Power/Planning) Government of Manipur, as the Chief Electoral Officer for the State of Manipur with effect from the date he takes over charge and until further orders vice Shri B. S. Lamba, IAS.

[सं. 154/मणिपुर/90

[No. 154/MR/90]

आदेश से,

By Order.

के पी जी. कूट्टी, सचिव

K. P. G. KUTTY, Secy.

आदेश

नई दिल्ली, 6 जुलाई, 1990

आ. प्र. 35 --निर्वाचन आयोग का समाधान हो गया है कि नोबे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट लोक सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्विनियमित गण नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा दशिन अपने निर्वाचन व्ययों का लेखा दाखिल करने में असफल रहा है;

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण प्रस्तुत नहीं किया है, या स्पष्टीकरण नहीं दिया है, निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्याख्यान नहीं है;

अतः प्रत्येक निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नोबे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए, आदेश की तारीख से तीन वर्ष की कालावधि के लिए, निरहित घोषित करता है।

सारणी

क्र. सं. निर्वाचन का विवरण	संसदीय निर्वाचन क्षेत्र की क्र. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और निरर्हता का कारण
1. केरल राज्य से लोक सभा के लिए साधारण निर्वाचन 1989	7--पालाषाट	श्री कावस्सेरी संकरन, सुपुत्र कोप्पन मुठालाकुलम हरिजन कालोनी, पो. आ. कावस्सेरी। यथा बिल्कुल -दाखिल नहीं किया।
2. --वही--	8--ओटापालम (अ. जा.)	श्री भानी सुपुत्र श्री बेलुयुथान म. नं. 2/208, अय्यलूर पंचायत, पो. आ. बिलुर तालुक --वही--
3. --वही--	--वही--	श्री अण्णुप्पी सी. पी. काजीयित्रीपुराडल (ह.उम) पो. आ. काजीयित्री वाया पेरिगोडे। --वही--

[सं. 76/केरल/90]

आदेश से,

सी. एम. राज, सचिव

ORDER

New Delhi, the 6th July, 1990

O.N. 35.—Whereas the Election Commission is satisfied that the contesting candidates specified in column (4) of the Table below at the election to the House of the People specified in column (2) and held from the constituency specified in column (3) against their name have not lodged the account at all as shown in column (5) of the said Table, as required by the Representation of the People Act, 1951 and the Rules made thereunder;

And, whereas, the said candidates have not furnished any reason or explanation for the said failure even after due notice, the Election Commission is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as and for being, a member of either House of the Parliament or the Legislative Assembly or Legislative Council of a State for a period of 3 years from the date of this order.

TABLE

S. No.	Particulars of election	S. No. and name of constituency	Name of contesting candidates	Reasons for disqualification
1	2	3	4	5
1.	General Election to the House of the People, 1989 from Kerala State.	7-Palghat	Shri Kavasseri Sankaran, S/o Koppan, Muthalakulam Harijan Colony, P.O. Kavassery.	Account not lodged at all.
2.	—do—	8-Ottappalam (SC)	Shri Maani, S/o Velayudhan, House No. 2/208, Ayilur Panchayat, Ayilur (P.O.) Chittur Taluk.	—do—
3.	—do—	—do—	Shri Appunni, C.P. Chazhiyittiripurayil (House) P.O. Chazhiyattiri Viz., Peringode.	—do—

[No. 76/KL/90]

By Order,
C.L. ROSE, Secy.

आदेश

नई दिल्ली, 9 जुलाई, 1990

आ. अ. 36:--निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट पंजाब राज्य से लोक सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन-क्षेत्र से चुना है, स्तम्भ (4) में उनके नामों के विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तत्सम बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा शक्ति अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहा है,

और उक्त अभ्यर्थियों ने सम्बन्ध सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदन पर, यदि कोई हो, विचार करने पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई विधिमार्ग कारण या न्यायोचित्य नहीं है।

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-क के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को संसद के किसी भी सदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहिता घोषित करता है।

सारणी

क्र. सं.	निर्वाचन का विवरण	निर्वाचन क्षेत्र की आ. सं. और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहिता का कारण
1	2	3	4	5
1.	लोक सभा के लिए माधराण निर्वाचन, 1989	10--मंगर संसदीय निर्वाचन-क्षेत्र	श्री अमृतसर गांधी पोस्ट, छाजली तहसील सुताम, जिला संगरूर	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल।
2.	—वही—	2--अमृतसर संसदीय निर्वाचन-क्षेत्र	श्रीमती करतार कौर, म. नं. 3150, नई धाबादी फजपुरा चीक रतन सिंह, अमृतसर	—वही—
3.	—वही—	—वही—	श्री बलबन्त राय, गांधी-मोहकमपुरा, पो. आ. तुंगपार्ह, जिला अमृतसर।	—वही—
4.	—वही—	—वही—	श्री मोहनंदर सिंह, 90, अजीत नगर, अमृतसर।	—वही—
5.	—वही—	—वही—	श्री माधो सिंह, गांधी मोहकमपुरा, पो. आ. तुंगपार्ह, अमृतसर।	—वही—
6.	—वही—	—वही—	क. राज लछमन सिंह, 104, रानी का बाग, अमृतसर।	—वही—

[सं. 76/पंजाब--लो. स./90 (1) 3540]

आदेश से,
बलबन्त सिंह, उपाध्यक्ष

ORDER

New Delhi, the 9th July, 1990

O.N. 36.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the House of the People from State of Punjab as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge any account of election expenses as shown in column (5) of the said Table as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representations made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said act, the Election Commission hereby declares the person specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of State/Union Territory for a period of 3 years from the date of this order;

TABLE

S. No.	Particulars of election	S. No. & name of Constituency	Name & Address of the Candidate	Reason for disqualification
1	2	3	4	5
1.	General Election to the House of the People, 1989	10-Sangrur Parliamentary Constituency	Shri Amritron Village & P.O. Chajali Tehsil Sunam Dist. Sangrur.	Failed to lodge any account of Election Expenses.
2.	—do—	2-Amritsar Parliamentary Constituency	Smt. Kartar Kaur H. No. 6180, Navi Abadi, Faiz Pura, Chowk Rattan Singh, Amritsar.	—do—
3.	—do—	—do—	Shri Balwant Rai, Village Mohakmpura, P.O. Tung Pai, Dist. Amritsar.	—do—
4.	—do—	—do—	Shri Mohinder Singh, 90, Ajit Nagar, Amritsar.	—do—
5.	—do—	—do—	Shri Madho Singh, Village Mohakmpura, P.O. Tung Pai, Amritsar.	—do—
6.	—do—	—do—	Captain Lachhman Singh, 104, Rani Ka Bagh, Amritsar.	—do—

[No. 76-PB-HP/90(1)/3540]

By Order,

BALWANT SINGH, Secy.

पट्टी दिल्ली, 12 जुलाई, 1990

New Delhi, the 12th July, 1990

आ. प्र. 37:—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में निर्वाचन आयोग एतद्वारा 1989 की निर्वाचन प्रती स.-1 में दिया गया पटना उच्च न्यायालय (पटना) का तारीख 29-1-1990 का आदेश प्रकाशित करता है।

[सं. 82/बिहार/(1/89)/90]

आदेश से,

बाबू राम, अधीन सचिव

O.N. 37.—In pursuance of Section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the order dated the 29th January, 1990 of the High Court of Judicature at Patna in Election Petition No. 1 of 1989.

[No. 82/BR/(1/89)90]

By Order,

BABU RAM, Under Secy.

IN THE HIGH COURT OF JUDICATURE AT PATNA

ORDER SHEET

Election Petition No. 1 of 1989

SYED SHAHABUDDIN.....

PETITIONER

VERSUS

M.J. AKBAR AND ANOTHER.....

O.Ps.

Serial no. of order	Date of order	Order with signature.	Office notes as the action (if any) take on order
1	2	3	

4. 29-1-1990.

This is a petition under sections 80A and 81 read with section 100(1)C of the Representation of People Act, 1951 (hereinafter referred to as 'the Act' only) by the petitioner Syed Shahabuddin calling in question the election of M.J. Akbar to the Lok Sabha from 23 Kishanganj Parliamentary constituency in the general election held in November, 1989 on the ground that the petitioner's nomination paper was improperly rejected by the Returning Officer.

It appears that the Election petition was presented before the office on 11-12-1989 and subsequently, filed before the Registrar of the Court on 18-12-1989. The maintainability of the petition has been questioned. The question is whether the Election petition has been legally and properly presented before the High Court in accordance with sections 80 and 81 of the Act.

The learned Counsel for the petitioner has submitted that 'since no Judge was assigned by the Hon'ble the Chief Justice to exercise the jurisdiction of the High Court to hear and dispose of the Election petition arising out of the General election of the Lok Sabha (Parliament) held in the year 1989 till the date of the filing of the Election petition, the same was filed before the Registrar of the Court under Chapter III of the Patna High Court Rules (hereinafter to be referred to as 'the Rules'), who in absence of the Judge was competent to receive the petition.

Section 81 of the Act deals with the presentation of the petition which runs as follows :

"An Election petition calling in question any election may be presented on one or more of the grounds specified in sub-section (i) of Section

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100 and Section 100(1) to the High Court by any candidate at any such election or any election within 45 days from, not earlier than, the date of election of the returned candidate, or if there are more than one returned candidate at the election and the dates of their election are different, the later of those two dates.....”

It is thus, obvious that the presentation of petition should be before the High Court.

The constitution of “High Court” has been defined in Article 216 of the Constitution of India which states that “Every High Court shall consist of a Chief Justice and such other Judges as the President may from time to time deem it necessary to appoint”. This clearly indicates that the “High Court” does not include the Registrar, who is at best an officer of the Court.

Chapter XXI-E of the Patna High Court Rules, which has been framed in conformity with the Act, lays down the Rules for the disposal of Election Petitions filed under section 81 of the Act i.e. the presentation of Petitions under Rule 1(c) “the Court” shall mean the High Court of Judicature at Patna and under 1(d) “the Judge” shall mean the Judge or Judges of the High Court who, from time to time, have been assigned by the Chief Justice under sub-section (2) of section 18A of the Representation of the People Act, 1951 for exercising the jurisdiction of the High Court under sub-section (1) of section 80A of the Act.

Rules 6 of Chapter XXI-E provides the forum for presentation of the Election petition by any candidate at such election or any elector, which runs as follows :

“Subject always to the order of the Judge, before a formal presentation of the Election Petition is made to the Judge in open Court, it shall be presented to the Stamp Reporter of the Court, who shall certify thereon if it is in time and in conformity with the requirements of the Act and the Rules in this behalf, or is defective and shall thereafter return the petition to the petitioner for making the formal presentation after removing the defects, if any:

Provided that if on any court day the Judge is not available on account of temporary absence or otherwise, the petition may be presented before the Bench hearing civil application and motions.”

As stated above, the present Election petition was presented before the office/stamp Reporter on 11-12-89 and subsequently, filed before the Registrar of the Court on 18.12.1989 it is true that no Judge was assigned by Hon’ble the Chief Justice to exercise the jurisdiction of the High Court to hear and dispose of the Election petition arising out of the General Election of the Loh Sabha (Parliament) held in the year 1989 on or before the filing of the present petition. In the daily list of the High Court dated 8th of January, 1990 it was notified that Hon’ble the Chief Justice assigned this Court to exercise the jurisdiction of the High Court, but on the date of filing the petition, i.e. on 18-12-1989, the Bench hearing civil applications and motions was available. The Election petition was not presented before that

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Bench in absence of the Judge and that having not been done, the petition must be held to have not been filed before the appropriate forum as provided under section 81 of the Act and Rule 6 of Chapter XXI-E of the High Court Rules. That being the position, filing of the petition before the Registrar of the Court cannot be treated to be a valid one. The Petitioner in the circumstances, cannot resort to the provisions of Chapter III of the High Court Rules to be the appropriate forum to file the petition.

The result is, that there was no proper presentation of the petition in the eye of law and accordingly, the present Election petition must be held to be not maintainable. I need not consider the other objections raised by the office, in view of my finding that the Election petition has not been properly presented.

S.C. MOOKHERJEE

